



DEPARTMENT OF COMMERCE AND INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN RE:

JAMES E. WEIR,

Applicant.

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DCI Case No. 2402140181C
AHC Case No. 24-0151

CONSENT ORDER

ANGELA L. NELSON, Director of the Missouri Department of Commerce and Insurance, takes up the above matter for consideration and disposition. The Consumer Affairs Division of the Department's Insurance Divisions, through counsel, and James E. Weir ("Weir"), through counsel, have reached a settlement in this matter and have agreed to the issuance of this Consent Order.

FINDINGS OF FACT

1. Angela L. Nelson is the duly appointed Director of the Missouri Department of Commerce and Insurance ("Director" of the "Department") whose duties, pursuant to, among others, Chapters 374 and 375, RSMo (2016)¹ include the supervision, regulation,

¹ All civil statutory references are to the 2016 Missouri Revised Statutes unless otherwise indicated.

and discipline of insurance producers.

2. The Consumer Affairs Division (“Division”) of the Department has the duty of conducting investigations into the conduct of insurance producers pursuant to the laws of Missouri and has been authorized by the Director to investigate and initiate actions to enforce the insurance laws of Missouri, including insurance producer license refusal.

PROCEDURAL HISTORY

3. On February 6, 2024, the Director issued an Order Refusing to Renew Resident Insurance Producer License (“Order”) to Weir.

4. Along with the Order, the Director attached a Notice that advised Weir of his right to appeal the refusal within thirty (30) days pursuant to § 621.120.

5. The Director served a copy of the Order on Weir by United Parcel Service (“UPS”), electronically tracked and signature required, at 1039 Hawthorne Village Drive, Warrenton, Missouri 63383-2916. UPS delivered the Order package on February 8, 2024.

6. On February 9, 2024, Weir filed a “Complaint” with the Administrative Hearing Commission (“Commission”).

7. On February 14, 2024, the Commission served its Notice of Complaint/Notice of Hearing on the Director.

8. On March 22, 2024, Weir filed his Motion for Leave, First Amended Complaint and Petition for Stay, and Motion to Strike.

9. On April 8, 2024, the Commission granted Weir’s Petition for Stay, providing that Weir’s resident insurance producer license would remain valid and in place until the Commission finally disposed of the case. See ORDER in AHC Case No. 24-0151

dated April 18, 2024 (stating: “A stay, if issued, prevents the Director’s refusal to renew the license from going into effect pending the final determination of this cause, and simply gives effect to the continuing nature of the license”).

10. On August 2, 2024, the Director filed her Amended Answer to Amended Complaint.

FACTUAL BACKGROUND

11. Weir is a resident of the state of Missouri with a reported residential, mailing, and business address of 1039 Hawthorne Village Drive, Warrenton, Missouri 63383-2916.

12. The Director initially issued Weir a resident insurance producer license, license no. 8355449, on August 26, 2015. His most recent license was set to expire January 24, 2024.

13. On November 13, 2018, the Division received a consumer complaint, which alleged that in October 2018, the consumer (“Consumer A”) contacted Weir asking about mortgage protection insurance plans. Consumer A stated that he had filled out an application, and on October 30, 2018, the insurance company wrote him to inform him that it would not be issuing the policy because it was missing certain information it needed. Consumer A indicated that he tried to contact Weir, but that Weir did not return his calls or text messages.

14. Consumer A also said that he discovered an application for a whole life/graded death benefit policy (“Final Expense” policy) for a second insurance company. Consumer A informed Dennis Fitzpatrick (“Fitzpatrick” or “Investigator”), a Special Investigator in the Division, that Consumer A was not aware of the second application, that

he had not filled it out and that the signatures on the second application were not his.

15. On May 20, 2020, Fitzpatrick sent Weir a Letter of Caution, informing Weir that the Division was closing the complaint file without seeking to discipline Weir's insurance producer license, but reminded Weir to abide by all the insurance laws of this state and that Weir might be subject to disciplinary action if the Department received additional consumer complaints in the future.

16. On February 7, 2022, the Division received a consumer complaint from an individual ("Consumer B"). In that complaint, Consumer B stated that he and his wife were looking for mortgage protection insurance. Weir contacted them in response and had several discussions by text message, email, and telephone with them. Consumer B told the Division that he and his wife thought they were applying for mortgage protection insurance. Instead, Weir sold them a term life policy with an Accidental Death Benefit (a "Final Expense" policy). Consumer B indicated that Weir did not return Consumer B's telephone calls or text messages.

17. On June 17, 2022, Weir and the Director entered into a Voluntary Forfeiture Agreement ("Agreement"). Weir agreed to voluntarily forfeit the sum of six hundred dollars (\$600.00) and admitted to the violations alleged by the Division for purposes of both the Agreement and any future violations of the insurance laws of this state. The violations alleged by the Division and admitted to by Weir were that Weir misrepresented the terms of an insurance application while concealing or suppressing a material fact in violation of § 375.144(2) and (3).

18. Weir also acknowledged in the Agreement that if in the future, the Director

or the Division alleged any additional violation of the insurance laws by Weir, nothing in the Agreement would preclude the Director or the Division from introducing Weir's admissions contained in the Agreement as evidence that the acts described in the Agreement form part of a course of conduct, a business practice, or other series of similar violations, for purposes of showing that the alleged later acts were committed knowingly, intentionally or in conscious disregard of the law.

19. On September 27, 2022, a consumer ("Consumer C") submitted a complaint to the Division. Consumer C stated that he was looking for mortgage protection insurance. He understood from talking to Weir that the policy Weir was offering would pay fifteen thousand dollars (\$15,000.00) per year until his mortgage was paid, or he could receive a lump sum payment and use it to pay off the mortgage. Consumer C sent in an application, which the insurance company approved. Consumer C then cancelled two life insurance policies believing he no longer needed them. However, Consumer C learned that instead of mortgage protection insurance, Consumer C's new policy was a Final Expense whole life insurance policy for a total of fifteen thousand dollars (\$15,000.00).

20. Fitzpatrick was assigned to investigate Consumer C's complaint. As part of the investigation, Fitzpatrick asked the insurance company Weir represented for information regarding all policies produced by Weir from January 1, 2022, to February 2, 2023.

21. In addition to Consumer C's policy, Fitzpatrick discovered that Consumer D was misinformed about the terms of a policy he purchased. Consumer D believed he was getting mortgage protection insurance, but actually received a Final Expense Level Benefit

policy.

22. On January 24, 2024, the Department received Weir's electronic application seeking renewal of his resident insurance producer license ("Renewal Application").

23. Background Question No. 2 on the Renewal Application provides as follows:

Have you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department? "Involved" means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration, application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. If you answer yes, you must attach to the application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document which demonstrates the resolution of the charges or any final judgment.

24. Weir answered "No" to Background Question No. 2.

25. Weir did not disclose the Agreement in his Renewal Application.

26. Weir has not added the Agreement to the online document retention database operated on behalf of member states by the National Association of Insurance Commissioners ("NAIC") as part of the insurance producer licensing process.

27. This Consent Order shall not be construed as an admission by Weir, this Consent Order being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the Refusal Order, the Amended Complaint, and the Amended

Answer to the Amended Complaint before the Commission in Case No. 24-0151. With the exception of the facts previously admitted to in the Agreement, Weir's agreement to take the remedial actions required by this Consent Order does not constitute an admission of wrongdoing or liability on his part or of any other person's or entity's part and is done to fully and completely resolve the allegations in the Refusal Order, the Amended Complaint, and the Amended Answer to the Amended Complaint before the Commission in Case No. 24-0151.

28. Weir and the Department desire to settle the allegations raised by the Refusal Order, the Amended Complaint, and the Amended Answer to the Amended Complaint before the Commission in Case No. 24-0151.

29. Weir acknowledges and understands that he has the right to consult an attorney regarding these matters. Weir has in fact consulted with counsel prior to entering into this Consent Order.

30. Weir stipulates and agrees to waive any rights that he may have to a hearing before the Commission or the Director and any rights to seek judicial review or to otherwise challenge or contest the terms and conditions of this Consent Order and forever releases and holds harmless the Department, the Director, her agents, and the Division from all liability and claims arising out of, pertaining to, or relating to this matter.

31. This Consent Order resolves all issues relating to Weir's licensure, including, but not limited to, any issues regarding attorneys' fees in this matter or in any matter flowing from the Refusal Order, the Amended Complaint, and the Amended Answer to the Amended Complaint before the Commission in Case No. 24-0151. Weir understands and

agrees that he will not bring any civil or administrative action seeking attorneys' fees in this matter or in any matter flowing from Refusal Order, the Amended Complaint, and the Amended Answer to the Amended Complaint before the Commission in Case No. 24-0151.

32. Within five (5) days from the date the Director executes this Consent Order, Weir shall dismiss the Amended Complaint before the Commission.

33. Weir acknowledges and understands that this Consent Order is an administrative action and will be reported by the Department to other jurisdictions. Weir further acknowledges and understands that this administrative action should be disclosed on future license applications and his next renewal application due on or before January 24, 2026, in this state and in other jurisdictions, and that it is his responsibility to comply with the reporting requirements of each jurisdiction in which he may be licensed now or in the future.

34. All signatories to this Consent Order certify by signing that they are fully authorized, in their own capacities, or by the named parties they represent, to accept the terms and provisions of this Consent Order in their entirety, and agree, in their personal or representative capacities, to be bound by the terms of this Consent Order.

CONCLUSIONS OF LAW

35. Section 375.141.1 provides, in relevant part:

1. The director may suspend, revoke, refuse to issue, or refuse to renew an insurance producer license for any one or more of the following causes:

- (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;
- (2) Violating any insurance laws, or violating any regulation, subpoena

or order of the director or of another insurance commissioner in any other state;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; [or]

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

36. Section 375.144 provides, in relevant part:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

(2) As to any material fact, make or use any misrepresentation, concealment, or suppression; [or]

(3) Engage in any pattern or practice of making any false statement of material fact[.]

37. The Director believes that the facts alleged in the Refusal Order and Amended Answer to Amended Complaint constitute cause to refuse to renew a resident insurance producer license pursuant to § 375.141.1(1), (2), (5), and (8).

38. The Director is authorized to settle this matter and issue this Consent Order in the public interest pursuant to §§ 374.046, 536.060, and 621.045.

39. The terms set forth in this Consent Order are an appropriate disposition of this matter, and issuance of this Consent Order is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Department will renew Weir's resident individual insurance producer license, subject to the conditions set forth herein:

40. Weir shall submit a spreadsheet to the Department, Attention: Marjorie Thompson, Consumer Affairs Division, Department of Commerce and Insurance, P.O. Box 690, Jefferson City, Missouri 65102, each quarter beginning January 1, 2025 showing all of the policies he has sold for the preceding quarter. Weir shall provide the spreadsheet every quarter for a two-year period from the date the Director executes this Consent Order.

41. Weir shall not sell a mortgage protection insurance product other than one that would pay the full amount of any mortgage amount outstanding at the time of the consumer's death.

42. Weir shall retain all of his records, including the insurance lead cards, pursuant to 20 CSR 700-1.140(5). Weir shall provide any of those records within ten (10) days of a request from the Department for them.

43. Weir shall also complete eight (8) hours of continuing education on the topics of ethics and consumer protection within six (6) months of the date the Director executes this Consent Order, in addition to the sixteen hours required by § 375.020, and submit proof of completion of the approved additional eight (8) hours of continuing education to Marjorie Thompson, Department of Commerce and Insurance, P.O. Box 690, Jefferson City, Missouri 65102.

44. Weir shall review Chapters 374, 375, and 376 and 20 CSR 700 and execute the attached affidavit when he has completed the review within sixty (60) days of the date

the Director executes this Consent Order.

45. Weir shall respond to all written inquiries and consumer complaints forwarded or otherwise communicated to him by the Department within five (5) business days of Weir's receipt.

46. Weir shall report in writing all written consumer complaints he receives to the Division within five (5) business days of Weir's receipt. If a written complaint is not communicated to Weir by the Department, Weir shall send a copy of the written complaint and Weir's response to said complaint to the Department within five (5) business days of Weir's receipt.

47. Weir shall report to the Department any violation of or failure to comply with the laws set forth in Chapters 374 or 375 within five (5) business days that Weir knows of such violation or failure to comply.

48. Weir shall report to the Department any administrative action taken against Weir in another jurisdiction or by another governmental agency in this state within five (5) business days after he receives notification of the initiation of such administrative action.

49. Weir shall report to the Department any probation violation, probation revocation, arrest, citation, guilty plea, *nolo contendere* plea, finding of guilt or conviction concerning a felony or misdemeanor within five (5) business days of such occurrence. Weir may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations; driving under the influence (DUI); driving while intoxicated (DWI); driving without a license; reckless driving; or driving with a suspended or revoked license.

50. With the exception of the special conditions listed in paragraphs 40 and 42,

the special conditions in paragraphs 41 through 49 will expire upon the expiration, lapse, termination, revocation, or renewal on or before January 24, 2026, of Weir's insurance producer license, whichever comes first.

51. The Director has agreed to meet with Weir to discuss mortgage protection insurance. Depending on the Director's schedule and availability, the meeting will take place at the Department's offices, 301 West High Street, Room 530, Harry S Truman State Office Building, Jefferson City, Missouri 65101, at a time and date agreed to by the parties. Within ten (10) days of the date the Director executes this Consent Order, Weir shall propose several dates and times for the meeting, and the Department will notify him of the agreed-upon date for the meeting. If none of the dates or times proposed by Weir are available based on the Director's schedule, the Director will set the date and time of the meeting, and provide notice to Weir's counsel of the selected date and time.

IT IS FURTHER ORDERED that for five (5) years subsequent to the date the Director executes this Consent Order, Weir will voluntarily surrender his license to the Department within thirty (30) days of Weir's entry of a guilty plea, *nolo contendere* plea, or finding of guilty or conviction for a felony, regardless of whether sentence is imposed, suspended, or executed.

IT IS FURTHER ORDERED that if Weir maintains his resident insurance producer license beyond the term of this Consent Order and complies with the terms of this Consent Order, Weir may apply to renew his license and the Director shall consider the renewal application in accordance with Chapters 374 and 375.

IT IS FINALLY ORDERED that the Director may pursue additional legal remedies,

as determined appropriate by the Director, and without limitation, as authorized by Chapters 374 and 375 including remedies for violation of, or failure to comply with, the terms of this Consent Order.

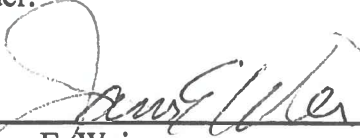
SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 17th
DAY OF March, 2025.



Angela L. Nelson
ANGELA L. NELSON, Director
Missouri Department of Commerce and
Insurance


CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Weir may have the right to a hearing, but that Weir has waived the hearing and agreed to the issuance of this Consent Order.




James E. Weir
1039 Hawthorne Village Drive
Warrenton, Missouri 63383-2916

2-25-25
Date



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3-3-25
Date



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March 7, 2025
Date